

Memoranda of Understanding (MOUs) with Domestic & Foreign Participants Plan

Memorandums of Understanding (MOUs) provide the Laboratory with a non-binding mechanism to establish mutual areas of potential collaboration with another participant.. The Laboratory may determine that a Memorandum of Understanding (MOU) with a domestic participant or, with permission of DOE, a foreign participant will help serve the Laboratory's and the DOE's Mission Areas.

1.0 APPROVAL RECORD

- Reviewed by: Amy Tehan, Document Control Coordinator
- Approved by: Deb Covey, Associate Director of the Laboratory and Export Control Manager
- Approved by: Mark Murphy, Chief Operating Officer
- Approved by: Duane Johnson, Chief Research Officer
- Approved by: Bruce Harmon, Deputy Director
- Approved by: Paul Tanaka, Legal Counsel
- Approved by: Alex King, Director
- Approved by: Ames Site Office Manager, Cynthia Baebler

The official approval record for this document is maintained in the Training & Records Management Office, 151 TASf.

2.0 REVISION/REVIEW INFORMATION

None; this is the initial release of this Plan. Future revision descriptions for this document will be made available from and maintained by the author.

3.0 POLICY

It is the Policy of the Ames Laboratory that any request by a non-DOE participant to enter into an MOU be initiated within the Directors' Office and contingent upon the assent of the Laboratory Director and, in the case of foreign participants, the DOE.

4.0 PURPOSE AND SCOPE

The International nature of science and the wide-ranging responsibilities of the Department of Energy increasingly provide incentives for the Ames Laboratory to engage with partners around the world. Establishing MOUs for specified undertakings helps establish roadmaps to identify potential areas for collaborative work.

5.0 DEFINITIONS

- 5.1** "MOU" is defined as a Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Declaration of Principles, or similar document whatever its title, and may be used only for informal, non-intellectual property related, non-R&D, and non-legally binding collaboration.
- 5.2** "Domestic participant" is defined as a non-governmental group based in the United States.
- 5.3** "Foreign participant" is defined as either a governmental or non-governmental group

based in a country, other than the United States.

6.0 ROLES AND RESPONSIBILITIES

6.1 Ames Site Office Manager

- 6.1.1 Reviews and obtains HQ approvals for the Laboratory to enter into MOUs with Foreign participants.
- 6.1.2 Obtains the review and approval of a proposed MOU by the Senior Counterintelligence Officer for the Ames Laboratory and by the DOE Site Office counsel.
- 6.1.3 Forward notice of approval/disapproval of MOU to Associate Laboratory Director for handling.

6.2 Laboratory Director

- 6.2.1 Initially screens all MOUs to ascertain if the objectives of the proposed MOU aid in meeting and align with the missions of the Laboratory and the DOE.
- 6.2.2 Approves/Disapproves the initial cooperative objectives and parameters of an MOU.
- 6.2.3 Executes or delegates authority to approve the negotiated MOU.

6.3 Associate Laboratory Director

- 6.3.1 Submits required forms to the Ames Site Office to obtain DOE approval on proposed MOUs with Foreign participants.
- 6.3.2 If approved, works with the participant to negotiate the MOU.
- 6.3.3 Sends fully executed copy of a Foreign MOU to the Office Director for International Collaborative Activities (labagreements@hq.doe.gov), and to the Ames Site Office Contracting Officer.
- 6.3.4 If Foreign MOU disapproved by DOE, prepares letter notifying the participant that the MOU cannot be executed.

6.4 Export Control Manager

- 6.4.1 Performs export control review on the technological areas of interest and notifies the Director if there are export control issues needed to be addressed in order for the Director to make an informed decision on whether to commence discussions with the participant.

7.0 PREREQUISITE ACTIONS AND REQUIREMENTS

- 7.1 This plan describes the process to ensure that MOUs with non-DOE partners meet these three tests.

Contact Person	Debra L. Covey	Revision	0
Document	Plan 10100.006	Effective Date	07/01/12
		Review Date	06/01/15

- MOUs must align with the strategic interests and policies of the United States.
- MOUs must be legally sound
- Due diligence must be performed to ensure that any counterintelligence considerations are addressed in the MOU.

8.0 PROGRAM/POLICY/PROCEDURE INFORMATION

8.1 All MOUs, whether domestic or foreign, must be initially screened by the Laboratory Director and the Associate Laboratory Director, to ascertain if the objectives of the proposed MOU aid in meeting and align with the missions of the Laboratory and DOE. In the event the MOU objectives do not fall within the Laboratory's mission nor the interests and policies of the DOE and the United States, then the participant will be informed that the Laboratory and/or DOE deems the MOU does not meet the Laboratory's or DOE's objectives.

8.2 Only the Director or his delegate may enter into MOUs at the Ames Laboratory

8.3 Domestic Entities

8.3.1 Once the goals and objectives of the MOU are approved by the Director as meeting the missions of the DOE and the Laboratory, a preliminary MOU is drafted in order to commence discussions with the involved participant.

8.3.2 Once negotiations are completed, the Laboratory Director or his authorized designee executes the agreement with the participant.

8.3.3 Fully executed copies are provided to the participants to the MOU.

8.3.4 MOU information is tracked in the Laboratory's R&D database.

8.4 Foreign Entities

8.4.1 Before initial negotiations occur, the Laboratory will determine the goals and objectives of the MOU and determine whether the MOU fits within the Laboratory and DOE's missions.

8.4.2 A draft MOU is written and the draft is sent to the Ames Site Office for review and approval, along with the required completed review form on the foreign participant per the memorandum from the Secretary of Energy dated May 14, 2012 (Attachment 1).

8.4.3 Once approval to enter into the MOU is received from the Ames Site Office, the terms and conditions of the MOU are executed with the participant. Any substantial changes to the draft MOU will be emailed to the Ames Site Office for further review and approval.

8.4.4 Foreign Language Translation.

The lab will obtain a draft of the foreign language text from the foreign partner after mutual agreement on the English language text has been reached, and forward it to

DOE's Office of International Cooperative Activities. OICA will coordinate review of the conformance of the English and foreign language texts by the Department of State's Office of Language Services, along with the paperwork to transfer the required funds.

- 8.4.5 If approval is denied by DOE, then a letter shall be sent to the participant explaining the denial (Attachment 4).

9.0 POST PERFORMANCE ACTIVITY

- 9.1 **Domestic:** The MOU is entered and tracked within the Laboratory's R&D database, once implemented.
- 9.2 **Foreign:** Upon execution of foreign MOUs, the Laboratory shall provide, within 20 days, a PDF copy of the MOU to the Office Director for International Collaborative Activities (labagreements@hq.doe.gov), and to the Ames Site Office Contracting Officer. All MOUs are entered and tracked within the Laboratory's R&D database, once implemented.

10.0 ADDITIONAL INFORMATION

- 10.1 **Attachment 1. Memorandum from Secretary Chu dated May 14, 2012**
- 10.2 **Attachment 2. MOU Boilerplate**
- 10.3 **Attachment 3. Information Form**
- 10.4 **Attachment 4. Denial Letter**

Attachment 1.



The Secretary of Energy
Washington, D.C. 20585

May 14, 2012

MEMORANDUM FOR DISTRIBUTION

FROM:

STEVEN CHU



SUBJECT:

Laboratory Memoranda of Understanding (MOUs) with
Foreign Partners

This memorandum establishes policy and procedures for any Memoranda of Understanding (MOUs)* between DOE National Laboratories and any foreign entity, whether governmental or private. I will rely upon each Laboratory Director to ensure that these requirements are met for any MOU entered into with a foreign partner.

The international nature of science and the wide-ranging responsibilities of the Department increasingly provide incentives for the National Laboratories to engage with partners around the world. Memorializing those undertakings helps establish roadmaps for collaborative work. But any such MOU involving our National Laboratories must meet several tests:

- First, they must align with the strategic interests and policies of the United States;
- Second, they must be legally sound; and
- Third, due diligence must be performed to ensure that any counterintelligence considerations are addressed.

Each laboratory shall have a process to ensure that MOUs with foreign partners meet these three tests, and that MOUs are reviewed by both the Senior Counterintelligence Officer for the laboratory and DOE Site Office counsel before they are signed.

Within 45 days, each Site Office Manager shall confirm in writing to the relevant Program Secretarial Officer that each laboratory under its purview has an adequate procedure to review MOUs with foreign partners, and should include a copy of that procedure.

* "MOU" includes Memorandum of Understanding, Memorandum of Agreement, Statement of Intent, Letter of Intent, Declaration of Principles, or similar document whatever its title, and may be used only for informal, non-R&D, non-legally binding collaboration. Contractual instruments such as Work for Others (WFO) contracts or Cooperative Research and Development Agreements (CRADAs) are already subject to prescribed statutory and regulatory requirements and DOE Orders.

Attachment 1.

In addition, upon signature of any future MOU with a foreign partner, the laboratory shall provide within 20 days a pdf copy of the MOU to the Office Director for International Cooperative Activities in the DOE Office of Policy and International Affairs - at labagreements@hq.doe.gov - so that the Department has a complete record of ongoing cooperative activities. This office can also provide assistance in creating a laboratory's review and approval process for MOUs, or in addressing any immediately pending MOUs. The contact is labagreements@hq.doe.gov or (202) 586-6569.

DOE Headquarters will instruct the laboratory not to implement any MOU discovered not to meet the above-mentioned practical tests. I believe this approach will preserve flexibility for the laboratories in the conduct of their work while meeting our Federal management obligations and policy requirements.

Attachment 1.

DISTRIBUTION:

Director, Ames Laboratory
 Director, Argonne National Laboratory
 Director, Brookhaven National Laboratory
 Director, Fermi National Accelerator Laboratory
 Director, Idaho National Laboratory
 Director, Lawrence Berkeley National Laboratory
 Director, Lawrence Livermore National Laboratory
 Director, Los Alamos National Laboratory
 Director, National Energy Technology Laboratory
 Director, National Renewable Energy Laboratory
 Director, New Brunswick Laboratory
 Director, Oak Ridge Institute for Science and Education
 Director, Oak Ridge National Laboratory
 Director, Pacific Northwest National Laboratory
 Director, Princeton Plasma Physics Laboratory
 Director, Radiological and Environmental Sciences Laboratory
 Director, Sandia National Laboratories
 Director, Savannah River Ecology Laboratory
 Director, Savannah River National Laboratory
 Director, SLAC National Accelerator Laboratory
 Director, Thomas Jefferson National Accelerator Facility

CC:

Daniel Poneman, Deputy Secretary of Energy
 David Sandalow, Acting Under Secretary of Energy
 Thomas P. D'Agostino, Under Secretary for Nuclear Security
 William Brinkman, Director of Office of Science
 Melvin G. Williams Jr., Associate Deputy Secretary of Energy

CF-1
 CI-1
 ED-1
 EE-1
 EM-1
 FE-1
 GC-1
 HC-1
 HG-1
 IG-1
 IM-1
 IN-1
 LM-1
 MA-1
 NE-1
 OE-1
 PA-1
 PI-1
 SC-1

Carlsbad Field Office
 Chicago Office
 Golden Field Office
 Idaho Operations Office
 Oak Ridge Office
 Office of River Protection
 Richland Operations Office
 Rocky Mountain Oilfield Testing Center
 Savannah River Operations Office

Attachment 2. MOU Boilerplate

This Memorandum of Understanding (MOU) is entered into this [REDACTED] day of [REDACTED], 201[X], by and between Ames Laboratory (AMES), a US Department of Energy (DOE or Government) National Laboratory operated by Iowa State University (Contractor) under contract DE-AC02-07CH11358, with principal offices located at 311 TASF, Iowa State University, Ames, Iowa 50011, and [REDACTED] (COMPANY) with principal offices located at [REDACTED], referred to jointly as the (Participants).

This MOU does not create any legally binding obligations between or among the Participants. The MOU defines areas of mutual interest and collaboration that may lead to entering into an appropriate formal agreement between the Participants.

WHEREAS, AMES and COMPANY share an interest in collaborating and sharing information in the area of (INSERT)

I. DEFINITIONS

- I.1. INTELLECTUAL PROPERTY means Patents, Trademarks, Copyrights, Mask Works, Privileged Information pursuant to 35 US C 205 and 37 USC 401, and other forms of comparable property rights protected by Federal law and other foreign counterparts, except trade secrets.
- I.2. PROPRIETARY INFORMATION means information which is developed at private expense outside of this MOU, is marked as Proprietary Information, and embodies (i) trade secrets or (ii) commercial or financial information which is privileged or confidential under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

2. SCOPE OF COOPERATION AND PERFORMANCE

- 2.1. AMES and COMPANY will [LIST THE JOINT GOALS AND SPIRIT OF COOPERATION HERE]
- 2.2. It is understood that any actual collaborative research and development (R&D) between the Participants, can only be conducted under an appropriate formal agreement. Therefore, the Participants expect to establish a separate formal agreement on each collaborative project if and as necessary.
- 2.3. The scope of cooperative activities between AMES and COMPANY shall primarily consist of the following:
 - Exchange of proprietary and/or non-proprietary technical information. AMES and COMPANY agree to execute a nondisclosure agreement in the event that

INTELLECTUAL PROPERTY or PROPRIETARY INFORMATION needs to be exchanged

- Other types of activities may be considered in case that both parties agree as needs arise.

3. TERM OF AGREEMENT; TERMINATION

- 3.1. The term of this Agreement shall commence upon the date first stated in the beginning paragraph and shall continue until 201X, unless sooner terminated hereunder, or amended by both Participants to this agreement.

4. MISCELLANEOUS

- 4.1. Neither Participant may assign or transfer its rights or obligations under this MOU without the prior consent of the other party, except that AMES may transfer its rights to a successor Contractor of AMES.
- 4.2. This MOU may be terminated by either Participant upon 30 days written notice to the other Participant.

IN WITNESS WHEREOF, both Participants have caused this MOU to be executed by their duly authorized representatives.

Ames Laboratory

Company Name

By: _____
 Name: Dr. Alex King
 Title: Laboratory Director
 Date: _____

By: _____
 Name: _____
 Title: _____
 Date: _____

Attachment 3. MOU Review Checklist 6/7/12

Lab MOU Review Check List

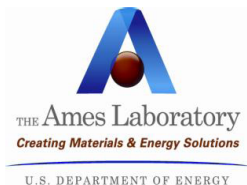
1)	Non-Fed WFO or CRADA?	<input type="checkbox"/> No <input type="checkbox"/> Yes If yes, review under these procedures not applicable.
2)	Proposed activities include collaborative R&D	<input type="checkbox"/> No <input type="checkbox"/> Yes If yes, (a) utilize WFO, CRADA or other Lab-signatory contractual instrument; or (b) contact relevant HQ Program Office with respect to potential for conclusion of DOE-signatory R&D agreement.
3)	Lab Name:	
4)	MOU Title:	
5)	Foreign Partner Name: Country:	
6)	Proposed cooperation:	
7)	Alignment with U.S. strategic interests and policies; benefits to Government and Labs:	
8)	Export Control Review	Conducted by _____ Date _____
9)	Counter Intelligence Review	Conducted by _____ Date _____
10)	DOE Site Office Counsel Review	Conducted by _____ Date _____
11)	Advice from Headquarters Program Office, General Counsel, and Policy and International Affairs	

Contact Person Debra L. Covey
Document Plan 10100.006

Revision 0
Effective Date 07/01/12
Review Date 06/01/15

12)	Foreign Language Text	<input type="checkbox"/> No <input type="checkbox"/> Yes If yes, send to HQ/PI Office of International Cooperative Activities with funding cite for official language conformance by State Department
-----	-----------------------	--

Attachment 4. Denial Letter



Ames Laboratory
311 TASF
Iowa State University
Ames IA 50011-3020
(515) 294-2770

June 1, 2012

[Recipient Name]
[Title]
[Company Name]
[Street Address]
[City, ST ZIP Code]

Dear [Recipient Name]:

After extensive review and consideration of proposed MOU between the Ames Laboratory and (COMPANY) in the area(s) of XXXXX, we have determined that we will not be able to meet the needs of your company in entering into a Memorandum of Understanding with your Company.

We appreciate your interest in partnering with our Laboratory and thank you for taking the time to discuss areas of possible collaboration with us. Our discussions with you indicate that you have a forward perspective in your industry. We wish you the best in your continued industry pursuits.

Sincerely,

Alex King
Director of Ames Laboratory